



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 29, 1993

Mr. James M. Williams
Assistant City Attorney
City of Austin
P.O. Box 1088
Austin, Texas 78767-8828

OR93-097

Dear Mr. Williams:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code.¹ Your request was assigned ID# 21673.

The City of Austin (the "city") has received a request for information concerning the addresses of homes to be given away in the "Dollar Home Drawing" under the city's Urban Homesteading Program.² You claim the requested information is excepted from required public disclosure under section 552.105 of the Government Code.

Section 552.105 excepts:

- (1) the location of real or personal property for a public purpose prior to public announcement of the project.

¹Article 6252-17a, V.T.C.S., was repealed by the Seventy-Third Legislature. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

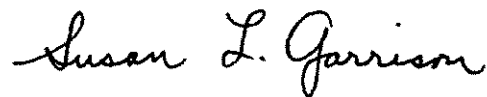
²We note that the request for information at issue here is only one of 24 items requested. The city states that it has no information concerning items 18 (copy of architect's report) and 24 (report referenced at a city council meeting in March 1993). The Open Records Act applies only to information in existence and does not require a governmental body to prepare new information. Open Records Decision No. 572 (1990). The city has no objection to the release of the remaining information and has notified the requestor of its availability.

This exception protects the planning and negotiating position of a governmental body with respect to a particular transaction. Open Records Decision No. 564 (1990).

The city states that the applicants for the home drawing are pre-approved to meet "federal affordability requirements" and have "reasonably sufficient income to obtain a rehabilitation loan from a private lending institution to make the necessary repairs to the house." The pre-qualified applicants are provided the addresses of homes to be awarded. Once the property is transferred to the winner, information on the homes that have been awarded is available to the public. The city notes that when the program was first implemented the addresses of the homes were announced prior to the drawing but due to extensive vandalism of the homes this practice was discontinued. The city claims that the possible vandalism of the homes to be awarded would jeopardize the program by increasing the repair costs needed to fix the homes and lowering the number of pre-approved applicants that would be able to meet the increased financial burden. Because the city has made a good faith determination based on past experience that releasing the addresses of homes prior to the drawing substantially increases the incidence of vandalism and undermines the city's Urban Homesteading Program, you may withhold the requested information under section 552.105 "prior to the public announcement of the project." *Cf. id.* (unless the records or other information show otherwise, this office will accept a governmental body's good faith determination that the release of information would damage its negotiating position to acquire property).

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Susan L. Garrison
Assistant Attorney General
Open Government Section

SLG/LBC/rho

Ref.: ID# 21673

cc: Mr. Dean Flinn
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